PUBLIC HEALTH COUNCIL

Meeting of the Public Health Council, Tuesday, September 28, 1999 at 10:00 a.m., Massachusetts Department of Public Health, Public Health Council Room, Second Floor, 250 Washington Street, Boston, Massachusetts. Present were: Howard K. Koh, M.D. (Chairman), Ms. Janet Slemenda, Mr. Benjamin Rubin, Mr. Albert Sherman, Mr. Manthala George, Jr., Dr. Thomas Sterne, Dr. Clifford Askinazi, Mr. Joseph Sneider and Ms. Shane Kearney-Masaschi. Also in attendance was Donna Levin, General Counsel.

Chairman Koh announced that notices of the meeting had been filed with the Secretary of the Commonwealth and the Executive Office of Administration and Finance, in accordance with the Massachusetts General Laws, Chapter 30A, Section 11A ½. In addition, he announced new item (2d) Appointment of Designated Governing Body for Public Health Hospitals.

The following members of the staff appeared before Council to discuss and advise on matters pertaining to their particular interests: Ms. Joan Gorga, Analyst, Mr. Jere Page, Senior Analyst, and Ms. Joyce James, Director, Determination of Need Program; Dr. Paul Dreyer, Director, and Ms. Nancy Murphy, Policy Analyst, Division of Health Care Quality; and Attorney Carl Rosenfield, Office of the General Counsel.

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RECORDS OF THE PUBLIC HEALTH COUNCIL MEETINGS OF JUNE 22, 1999 AND JULY 20, 1999:

Records of the Public Health Council meetings of June 22, 1999 and July 20, 1999 were presented to the Council. After consideration, upon motion made and duly seconded, it was voted (unanimously): That, records of the Public Health Council Meeting of June 22, 1999 and July 20, 1999, copies of which had been sent to the Council Members for their prior consideration, be approved, in accordance with Massachusetts General Laws, Chapter 30A, Section 11A ½.

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PERSONNEL ACTIONS: No Discussion

In a letter dated September 7, 1999, Howard K. Koh, Commissioner, Department of Public Health, recommended approval of the appointment of David Ebert to Program Manager V (Director of Special Projects). Supporting documentation of the appointee's qualifications accompanied the recommendation. After consideration of the appointee's qualifications, upon motion made and duly seconded, it was voted (unanimously): That, in accordance with the recommendation of the Commissioner of Public Health, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the appointment of David Ebert to Program Manager V (Director of Special Projects) be approved.

In a letter dated September 17, 1999, Howard K. Koh, Commissioner, Department of Public Health, recommended approval of the appointment of Dennis Sullivan to Administrator VI (Director of Community Programs), Tewksbury Hospital. Supporting documentation of the appointee's qualifications accompanied the recommendation. After consideration of the appointee's qualifications, upon motion made and duly seconded, it was voted (unanimously): That, in accordance with the recommendation of the Commissioner of Public Health, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the appointment of Dennis Sullivan to Administrator VI (Director of Community Programs), Tewksbury Hospital be approved.

In a letter dated September 2, 1999, Katherine Domoto, M.D., Associate Executive Director of Medicine, Tewksbury Hospital, Tewksbury, recommended approval of the appointments and reappointments to the medical staff of Tewksbury Hospital. Supporting documentation of the appointees' qualifications accompanied the recommendation. After consideration of the appointees' qualifications, upon motion made and duly seconded, it was voted (unanimously): That, in accordance with the recommendation of the Associate Executive Director of Medicine of Tewksbury Hospital, under the authority of the Massachusetts General Laws, Chapter 17, Section 6, the appointments and reappointments to the medical staff of Tewksbury Hospital be approved for a period of two years beginning September 1, 1999 to September 1, 2001:

APPOINTMENTS	**STATUS/SPECIALTY**	**MED. LIC. NO.**
Eric Hatton, M.D.	Internal Medicine	53738
Christine Finn, M.D.	Psychiatry	158109

REAPPOINTMENT	**STATUS/SPECIALTY**	**MED. LIC. NO.**
Theodore Feinson, M.D.	Consultant Staff Pulmonary Med.	50953
Ronald Pies, M.D.	Consultant Staff Psychiatry	53662
Pradeep Reddy, M.D.	Affiliate Staff Internal Med.	75118
John Sebastianelli, M.D.	Affiliate Staff Psychiatry	71571

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NEW BUSINESS:
APPOINTMENT OF DESIGNATED GOVERNING BODY

The Medicare Conditions of Participation require participating hospitals to have a governing body legally responsible for the conduct of their facilities. This requirement is also a standard of the Joint Commission on Accreditation of Health Care Organizations (JCAHO). Associate Commissioner James Hill previously held the position of designated Governing Body for the Department of Public Health Hospitals. Mr. Hill left the Department of Public Health in July. There is no one currently serving in this capacity for the Public Health Hospitals. The MDPH Bylaws of the Bureau of Public Health Hospitals authorize the Commissioner to appoint a designated Governing Body of the Department for

Public Health Hospitals subject to the approval of the Public Health Council. Pursuant to these Bylaws, the designated Governing Body is required to be an Associate Commissioner, appointed to lead, direct, and coordinate policy and operations for the Bureau of Public Health Hospitals; supervise the Chief Executive Officers, and provide for institutional management and planning at the Department of Public Health Hospitals. It is requested that the Public Health Council approve the appointment of Associate Commissioner William Thompson as designated Governing Body for Department of Public Health Hospitals to act on behalf of the Commissioner and the Public Health Council.

After consideration, upon motion made and duly seconded, it was voted unanimously **to approve the appointment of William Thompson, Associate Commissioner, as designated Governing Body for Department of Public Health Hospitals to act on behalf of the Commissioner and the Public Health Council.**

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*Agenda Item 6b, Project Application No. 5-3979 of Good Samaritan Medical Center, Inc., was taken first, out of turn.

ALTERNATE PROCESS FOR TRANSFER OF OWNERSHIP APPLICATION:

PROJECT APPLICATION NO. 5-3979 OF GOOD SAMARITAN MEDICAL CENTER, INC. – REQUEST FOR TRANSFER OF OWNERSHIP AND ORIGINAL LICENSURE OF GOOD SAMARITAN MEDICAL CENTER, RESULTING FROM A LETTER OF INTENT ENTERED INTO BY GOOD SAMARITAN MEDICAL CENTER, INC. AND CARITAS CHRISTI WHEREBY CARITAS CHRISTI WILL BECOME THE SOLE CORPORATE MEMBER OF GOOD SAMARITAN MEDICAL CENTER, INC.:

Ms. Joan Gorga, Program Analyst, Determination of Need Program, said in part, "The Applicant, Good Samaritan Medical Center, Inc., the licensee of Good Samaritan Medical Center in Brockton, is before you today seeking approval for a transfer of ownership and original license of the Medical Center. The transfer results from the letter of intent between Good Samaritan and Caritas Christi by which Caritas Christi would become the sole corporate member of Good Samaritan Medical Center, Inc.; and Good Samaritan Medical Center, Inc. would become a full member of the Caritas Christi Health Care System. At present, Good Samaritan Medical Center has two corporate members, Goddard Health Planning Corporation and Caritas Christi. The Board of Trustees of Good Samaritan Medical Center, Inc. has determined that it is in the best interest of the Medical Center for it to become a full member of the Caritas Christi Health Care System. The application was reviewed using the alternative process for change of ownership. The standards applied include required residece in the applicant's primary service area for a majority of individuals involved in decision making for the facilities. They also include no access problems identified by the Division of Medical Assistance, and no violation of provisions. The applicant has agreed to maintain or increase the 3.1 percent of gross patient service revenue allocated to free care as existed prior to the transfer, and staff is recommending that as a condition of approval. The applicant is a licensed facility. A public hearing was requested

on the application by a group from the Good Samaritan. The hearing was held at the Medical Center on the evening of Sepember 16, 1999. Thirty people attended and six people testified. Speakers included the Chairman of the Board of Trustees, the Consumer Member of the Board of Trustees, two physicians from the hospital, the Executive Vice-President of Caritas Christi and the Director of Finance and Regulatory Services for the Good Samaritan Medical Center, who spoke on behalf of the employees. All speakers emphasized the importance of Good Samaritan's affiliation with Caritas Christi, because of the expanded and specialized resources of the larger system, which will improve the ability of the Medical Center to fulfill its charitable mission. There were no speakers in opposition to the Determination of Need. In conclusion, staff recommends approval of the application, Project #5-3979 with the condition as indicated in the staff summary which has been agreed to by the applicant."

Dr. Michael Collins, President of Caritas Christi, responded. He said in part, "…We have been, as a group of Catholic Institutions, trying to respond to the Cardinal's vision that there be a Catholic hospital in each one of the markets. And we recognize that health care has become a team sport; that it is very difficult now for individual institutions to face the big challenges that we face as individuals. No matter how competent the staff could be at Good Samaritan Medical Center, it is just one group of people trying to deal with a very complicated marketplace. By their joining the system now, it will be possible for them to enjoy the collegiality and the support of a much larger health care system. We are not Boston-centric in our thinking. We are community focused in our thinking. Our system has just one major Boston teaching hospital, not a large number of them. We don't have a lot of beds in Boston. That is our goal, to fill up. And our view and our interest in growing our system has been that the Catholic hospitals have support from each other, and secondly, that we have a community focus in our orientation. And that would be the case for us in Brockton as we now begin to work to assess what the needs of the community would be there and to try to fulfill them through their joining our system. And so we are encouraged by the staff recommendation, and hope that you will be able to support it."

After consideration, upon motion made and duly seconded, it was voted unanimously to **approve Project Application No. 5-3979 of Good Samaritan Medical Center, Inc. Request for transfer of ownership and original licensure of Good Samaritan Medical Center**, resulting from a Letter of Intent entered into by Good Samaritan Medical Center, Inc. and Caritas Christi whereby Caritas Christi will become the sole corporate member of Good Samaritan Medical Center, Inc., a copy is attached to and made a part of this record as **Exhibit Number 14, 659**. This approval is subject to the following condition:

The Applicant has agreed to maintain or increase the percentage of gross patient service revenue allocated to free care, as defined at M.G.L. c. 118G or its successor statute covering uncompensated care, as existed prior to the transfer. The percentage of gross patient service revenue for Good Samaritan Medical Center allocated to free care shall be 3.1%.

REGULATION:

REQUEST FOR FINAL PROMULGATION OF AMENDMENTS TO THE HOSPITAL-BASED ADULT CARDIAC CATHETERIZATION SERVICES LICENSURE REGULATIONS:

Ms. Nancy Murphy, Policy Analyst, Division of Health Care Quality, presented the request for final promulgation of amendments to the hospital-based adult cardiac catheterization services licensure regulations to the Council. She said in part, "…The current regulations require a physician to perform a total of one hundred procedures, and if the procedures are performed at more than one hospital, the physician must perform at least fifty at each site. These amendments revise the minimum volume requirements per site for physicians who perform cardiac catheterization and electrophysiology study procedures at multiple hospitals. A subcommittee of the advisory committee for invasive cardiac services recommended the proposed amendments which were released for public comment. Rather than requiring all physicians to perform a minimum of fifty procedures at each site, the amendments would require the physicians to perform fifty at one site and allow him or her to perform between twenty-five and fifty at all other sites. The quality of the procedures would be reviewed by the laboratory director at the site where the physician performs the fifty procedures. Based on the comments received through the public hearing and comment period, we have revised the proposed amendment to allow physicians who meet the minimum total volume requirement of one hundred procedures to perform fewer than twenty-five procedures per site, as long as the quality of the operator's performance is supported to the Department's satisfaction by the laboratory directors where the physician performs. The Invasive Cardiac Service Advisory Committee would continue to have authority to review the quality of the multi-site operators. Hospitals would not be allowed to renew privileges for physicians who do not meet the overall volume requirement of one hundred procedures per year and have performed fewer than twenty-five procedures at that site. We are requesting final promulgation of these amendments."

After consideration, upon motion made and duly seconded, it was voted [Chairman Koh, Ms. Slemenda, Mr. Rubin, Mr. Sherman, Mr. George, Dr. Sterne, Dr. Askinazi, Ms. Kearney-Masaschi in favor; Mr. Sneider was not present to vote] **to approve the request for final promulgation of of amendments to the Hospital-Based Adult Cardiac Catheterization Services Licensure Regulations**; that a copy of the approved regulations be forwarded to the Secretary of the Commonwealth; and that a copy of the amended regulations be attached to and made a part of this record as **Exhibit Number 14,660**. A public hearing was held on June 28, 1999.

DETERMINATION OF NEED:

PREVIOUSLY APPROVED DON PROJECT NO. 4-3966 OF METROWEST MEDICAL CENTER – PROGRESS REPORT ON COMPLIANCE WITH CONDITIONS OF APPROVAL FOR TRANSFER OF OWNERSHIP:

Ms. Joan Gorga, Program Analyst, Determination of Need Program said, "…Staff has reviewed progress reports submitted by Metrowest Medical Center and by the Metrowest Community Healthcare Coalition regarding the ten conditions of project No. 4-3966 approved by the Council on February 1999. Of the ten conditions, seven rely heavily on the results of a community needs assessment which has been delayed due to changes at the executive level at Metrowest, and therefore there has been little progress in compliance in these conditions. Of the three remaining conditions, the condition on continuity of care is not applicable at this time because no essential services have been closed. The applicant appears to be in compliance with the condition on employee relations. The condition on statutory free care stipulated that the percentage allocated to free care should be 2.5 percent. Since the transfer of ownership, data submitted by Metrowest indicate that free care has accounted for 2.08 percent of the gross patient service revenue. Acute care hospitals statewide have noted a reduction in the percentage of free care, and during this time period the State conducted a campaign which enrolled two hundred and four thousand Massachusetts residents in Mass. Health. Metrowest submitted data that showed a forty percent increase in Mass. Health revenue, over the same time period last year, which would indicate care provided to service area residents who previously would have been recipients of free care. On two conditions, transportation and governance, there is a lack of agreement between the applicant and the Coalition. The condition on transportation indicates that the applicant should provide a shuttle service between the hospital sites in Natick and Framingham. The applicant has been routinely providing taxi vouchers for patients requiring transportation between the two sites. But the Coalition notes that a voucher system is different than a shuttle with posted schedule. Staff has recommended in the staff summary that the applicant continue with the voucher system until the needs assessment is completed, but publicize the vouchers in appropriate locations. Staff has noted that the shuttle service was agreed to by the applicant, and that this issue must be addressed, both in the needs assessment and in the next progress report."

Ms. Gorga continued, "On the issue of governance, the applicant in the recruitment advertisement for the local advisory board has stated that the boards will provide input on community benefits. But the Coalition notes that the board should make recommendations on community benefits rather than provide input…Staff has found that the condition as issued on March 5, 1999 did indicate that one of the principal functions of the local advisory board shall be to make recommendations to the governing board on community benefits. Staff notes that the condition as written does not preclude the local advisory board from gathering input on community benefits from other groups, including groups especially convened to discuss the issue. But recommendations are the responsibility of the local advisory board. In conclusion, although some activities have been implemented, without the community needs assessment, Metrowest has not been able to implement any of the activities and changes included in the conditions. The Coalition and Metrowest have met to discuss the assessment; additional meetings are scheduled; and they should be commended for their efforts in this activity, which has many components. As noted in the staff summary, the staff recommends that Metrowest be directed to submit further updates to the Council in March 2000 on its progress in complying with all of the conditions of its approved DoN Project No. 4-3966, and that staff be directed to report its findings to the Public Health Council. Staff expects to see more substantial progress in the next progress report."

Next, Ms. Mary Jo Gregory, Chief Executive Officer and President of Metrowest Medical Center, responded. She said in part, "…I have been working closely with the people at Metrowest and have seen where we have come in terms of coordinating things with the Coalition and with the community. On the community needs assessment, although it did slow down in the process of transfer of leadership, it is up and running now. We do have all the pieces put together. And I assure you it will be on time and running along with the commitment that we have made with the Coalition and the Department of Public Health."

Mr. Mark Ritchie, Chairman of the Board, Metrowest Medical Center, said, "The community needs assessment is a true community needs assessment not a strategic plan for the acute care facility, Metrowest Medical Center. It is touching on the health needs of all constituents in the twenty-five towns that represent our primary and secondary market area. Probably one of the most comprehensive studies of its type, definitely in the Metrowest area. It is probably one of the most comprehensive studies of its type, definitely in the Metrowest area…."

Ms. Demetra Willette, Tenet Health Care Corporation, said in part, "…That process was an outgrowth over a year and a half ago when Tenet was starting to bid on Metrowest Medical Center for the acquisition. We were out in the community introducing ourselves and getting to know the community. We met with over a hundred people. These people were representatives from the minority community, legislators, concerned citizens, clergy, social services agencies, etc. In meeting with them, we found that there were recurrent themes such as transportation, the cultural competency, etc. We decided if we were to be successful and attain the ownership of Metrowest, which we did, we would conduct a very comprehensive community needs assessment to determine what the people's perceptions were regarding the medical needs of the community. So we have hired a group called the Public Health Resource Group from Portland, Maine. They will be looking at our primary and secondary service area. We will be sending out a questionnaire to six hundred respondents; four-hundred in the primary and two hundred in the secondary service area. Then we are going to meet with key constituencies in the community, and we are going to be working with the Coalition to help us identify who those constituents should be. We will have one-to-one meetings with those people, several groups of those. Then from that, we will try to refine the vehicle and determine which focus groups we should have. The Public Health Resource Group has done this in a number of communities. They have done this at Jordan Hospital and Health Alliance. So we have not only the capability to compare ourselves to ourselves, but also to other like communities throughout Massachusetts and across the United States. We have identified specialty groups, and we are going to sample those specialty groups, including the minority populations that exist in our catchment area."

Ms. Nikki Meadow, Metrowest Community Health Care Coalition, said, "I want to make four points here today, the first being on the needs assessment. Much in the DoN, much in those conditions is hinged on that needs assessment. We have had two meetings with Tenet and Demetra…We are hoping for a bigger role in shaping the process, in reviewing those surveys that will be out in two weeks, so that we can really look at health care access needs especially with underserved populations. We are looking for a bigger role in shaping the

process and working with the consultant in order to get at what the needs are of the populations we are most concerned about: uninsured, underinsured, linguistic minorities and the like. The second issue is transportation. There are very few conditions in the DoN and in our agreement that is attached to the DoN that did not hinge on the needs assessment. There were two others. One was monitoring the quality of interpreter services by patient satisfaction surveys, which will be beginning in September in Tenet's submission. A second one, was substance abuse and mental health provider process for input around the needs of the mental health and substance abuse community, and that is also in the process according to the Tenet submission. This was the only other provision in the DoN that did not require the needs assessment. We are not sure what has changed when it comes to transportation to not comply with that now. And just to give you the history of how we cane to that, that was something that Tenet had agreed to with Metrowest Health, Inc. the non-profit owner, the twenty percent owner, as well as with the Coalition, and then was attached in the DoN. The Coalition's first position when we were negotiating with Tenet was we saw a bigger need when it came to transportation to get people to and from the hospital, from the housing projects, from where the low income people were living, to get them to and from the campuses. But we were not successful in convincing Tenet to provide that kind of transportation. This was a compromise position which we did accept. And so if we understand, the staff's recommendation is to go with a private taxi voucher system. We can live with that. We are just not sure what happened from six months ago to now to make the shuttle not a condition. And we just want to make sure that there is strong notice of availability of these taxi vouchers. Tenet has said they will make them clear. It's harder for people to ask for a free voucher than it is to hop on a shuttle. Hopefully the needs assessment will document that in fact another need is to get people to and from the hospital, from where low income and uninsured people live, to health care. Maybe we can be successful in convincing Tenet and you that that is what ultimately should be covered in addition to a shuttle…On governance, we have resolved the language on the role of the governing board in favor of the language that was in the agreement. There had been a question on community benefits, and that has been resolved in favor of the language that was in the agreement. Lastly, I think everyone is in agreement on this in terms of a six-month review by the Public Health Council, in light of the delay, and we understand the transition in administration, but that we all come back in six months in the hope that the needs assessment has been completed and that other community processes such as one on free care, education and outreach will have begun after that needs assessment, and we will have more to report."

Ms. Nancy King, Metrowest Community Health Care Coalition, said, "I just wanted to echo what Nikki said. It has been frustrating for all of us that it has taken so long for this needs assessment to occur. I want to reemphasize that we want to continue in a dialogue with the hospital, not only on the needs assessment but on all the conditions. Although there was some issue over the community benefits, we do not want the process that they had developed, which was pretty comprehensive, to go by the wayside in favor of the local boards. I am sure we can resolve and work out something that everyone is happy with, the boards as well as the community. But we do underscore our interest to continue to work with the hospital and shape the needs assessment and conditions."

Representative John Stefanini, Seventh Middlesex District, said, "I represent Framingham….I am excited about what is going on at Metrowest, and I was reluctant to get involved when Columbia came in and it was not my first choice. I am fairly excited about Tenet's emergence because of their willingness to reach out to the marketplace. The community-based process has been far-reaching within the community. Tenet asked me if I would join the board of the facility. I agreed to do so if they involved other community members. The board right now has twelve prominent community people including a member of your staff and others that are active in securing access. Some of the things that were not talked about include an expansion in a homeless clinic to reach out into a targeted audience where health care is an issue. The have established a health clinic at the Woodrow Wilson School, which is in the poorest census block within this area…I think the seeds for a good relationship have been established. I applaud your staff on the issue of transportation. The voucher system will be probably more expensive for Tenet in the long run, but it will be more efficient for the consumers to get from point A to point B through a taxi cab rather than waiting for some other system…"

After consideration, upon motion made and duly seconded, it was voted unanimously that **Project No. 4-3966 of Metro West Medical Center – Progress report on compliance with conditions of approval for transfer of ownership be approved and return in six months to discuss progress on Metrowest.**

PREVIOUSLY APPROVED DON PROJECT NO. 1-2564 OF BAYSTATE HEALTH SYSTEM, INC.. – PROGRESS REPORT ON COMPLIANCE:

Ms. Joyce James, Director, Determination of Need Program, said, "I am here today to present Baystate Health Systems, Inc. final implementation of an amended condition of approval to Project No. 1-2564. Exhibit One shows the originally approved condition in 1976, and Council's amended condition in 1997. The condition relates primarily to the governance structure of Baystate Health Systems, Inc.. When Baystate filed its six-month progress report on the amended condition, counsel recommended that within a year Baystate should file a report indicating final implementation of the amended condition. This report was filed on July 1999 and is the basis of staff findings and recommendation. Staff finds that Baystate has fully complied with the amended condition of approval evidenced by the following: One, the Board of overseers, trustees, health directors board and the various committees have become more diversified and more representative of the communities served by Baystate, Baystate Health Systems, Inc. and its affiliates. The second finding is that Baystate Health System, Inc. has developed closer ties to the communities. This is true of their community health education and promotion committee, which is responsible for identifying community needs and ensuring that the strategies proposed by Baystate are implemented. Finally, staff finds that Baystate has in place a process which provides assurance that it will continue to maintain a diverse board of directors, overseers, etc., and that it will continue to increase its involvement with the community. Therefore staff recommends that the Department take no further action on this project."

After consideration, upon motion made and duly seconded, it was voted unanimously that **Previously Approved DoN Project No. 1-2564 of Baystate Health System, Inc. – Progress Report on Compliance with conditions of approval for Transfer of Ownership has been accepted.**

PREVIOUSLY APPROVED DON PROJECT NO. 5-1221 OF BAYPOINTE NURSING HOME – REQUEST TO INCREASE THE MAXIMUM CAPITAL EXPENDITURE BY MODIFYING A CONDITION OF APPROVAL:

Ms. Joyce James, Director, Determination of Need Program, said, "Baypointe Nursing Home has filed a request for adjustment to the final capital cost of project number 5-1221. Council's action is required because a condition was attached to the final cost, disallowing any further increases. This was before Council outlawed such practice. Therefore we have to bring it for your approval. The staff finds these costs are truly related to activities that could not have been foreseen by the provider when the application was filed. It included things like replacing the water system, providing additional therapy equipment because of the clinical nature of the residence, occupying the facility, a requirement of a parking lot by the City of Brockton. Also, there is a capital cost adjustment because the correct cost per gross square feet was not applied when the original application was approved…I recommend your approval."

After consideration, upon motion made and duly seconded, it was voted unanimously: [Chairman Koh, Ms. Slemenda, Mr. Rubin, Mr. George, Dr. Sterne, Dr. Askinazi, Ms. Kearney-Masaschi, Mr. Sneider in favor; Mr. Sherman abstaining (M.G.L. 268a), **to approve with a condition the request to modify a condition of approval and increase the final approved maximum capital expenditure (MCE) of Baypointe Nursing Home, Project Number 5-1221.** The approval increases the inflation –adjusted MCE from $11,119,456 (August 1995 dollars) to 11,759,087 (June 1999 dollars) itemized below. The MCE is for 52,668 GSF of new construction and does not include the construction costs for the 12 DoN-exempt beds.

Land Costs:		
Land Acquisition Cost	$	990,000
Site Survey and Soil Investigation		49,140
Total Land Costs		1,039,140
Construction Costs:		
Depreciable Land Development Cost		879,832
Construction Contract (including bonding cost)		7,724,944
Architectural & Engineering Costs		455,000
Pre & Post-filing Planning & Development Costs		53,000
Net Interest Expense During Construction		591,134
Major Moveable Equipment		430,859
Total Construction Costs		10,134,769
Financing Costs:		
Costs of Securing Financing		585,178
Total Financing Costs		585,178
Total Estimated MCE		1,759,087

CATEGORY 2 APPLICATION:

PROJECT APPLICATION NO. 4-1397 OF SHERRILL HOUSE, INC. – RENOVATION AND NEW CONSTRUCTION TO REPAIR AND REMODEL THE FACILITY AND ADD 12 DON EXEMPT BEDS:

Mr. Jere Page, Senior Analyst, Determination of Need Program, said, "The applicant, Sherrill House, Inc., is before the Council today seeking approval for renovation to replace the existing facility's major building component systems: The HVAC, elevators, electrical system, plumbing, etc.. The project also involves new construction, mainly to add to a seventy-five space underground parking garage, and the recommended maximum capital expenditure is 10.3 million dollars (in January 1999 dollars). A public hearing was held on July 6th at the request of the Kevin Maloney (Ten Taxpayer Group). Members of the taxpayer group expressed concerns about the applicant's plan to demolish the existing ninety-four year old stucco building at 147 Huntington Avenue which is immediately adjacent to the existing House and replace it with the underground parking garage. The taxpayer group also notes that the building has historical value, and believes it should remain on the site rather than be demolished. The taxpayer group believes that the impact of this action would be to seriously degrade the appearance of the landscape architecture in the immediate area, as well as to compromise the ongoing preservation of the Emerald Necklace, which is contiguous to Sherrill House. In responding to these concerns, staff notes that the issues raised are local issues and beyond the purview of the review. Staff notes that the applicant will require approvals by the Boston Redevelopment Authority and the Parks Commission prior to the start of construction. In addition, on April 15, 1997, the Boston Landmarks Commission gave permission for the Inspectional Services Department to issue a demolition permit for the stucco building. In conclusion, staff recommends approval of this project with the conditions indicated in the staff summary."

Reverand Thomas Kennedy, Chairman of the Board, Sherrill House, responded. He said in part, "…Sherrill House is a facility which represents the combined efforts of Trinity Church in the City of Boston in Copley Square, the Episcopal Dioceses of Massachusetts, as well as St. Luke's Home for Convalescence, and in more recent years, the Frank Wood Home for Convalescence, which combined its assets and resources with Sherrill House in order to go forward with their mission in joining with us. Sherrill House is a 164-bed skilled nursing facility serving the needs of frail elders since it opened on that site almost 30 years ago. The four–story brick structure at that time was a state-of-the-art facility bringing needed skilled nursing to an area which was, if not underserved, poorly served in that part of the section of Boston known as Jamaica Plain. Since that time, we have developed an outstanding reputation for dealing with dementia and end of life care. During the last thirty years, as the needs of the frail elder have changed and increased, we have adapted our programmatic efforts to try to address those needs. We have developed a forty-one bed special Alzheimer's unit to address that as well as other programmatic efforts there at Sherrill House. Nonetheless, we continue to see the increased need and demand for care for frail elders, and particularly those with late stage Alzheimer's, which has become a specialty of the nursing home. We currently enjoy a ninety-nine percent occupancy rate at the home, which indicates

that there is a continued demand for our services. While we have been able to adapt programmatically to the changing needs, the facility has remained basically the same as it was built thirty years ago. As a result, the Board of Directors undertook a strategic plan and has now embarked upon an initiative of bed and space expansion in order to more effectively and efficiently manage the needs of our residents. The expansion of twelve beds was a result of the need for additional space as well as enhanced programmatic areas for our initiatives, which will allow our staff to better serve the needs of our patients. The Board believes that the mission of Sherrill House, which is in summary, those who care heal, will be further enhanced by the renovations and additions to the present facility. We have had a long and outstanding tradition of assuring the finest skilled nursing even for those who can least afford it. At the present time, close to seventy-five percent of our residents are Medicaid patients. We believe that the capital improvements for which we are seeking your approval will continue to help us further fulfill our mission."

Mr. Kevin Moloney, Member TenTaxpayer Group, said in part, "…I am a Vice Chair Member of the Board of Directors of the Jamaica Pond Association, which is a four hundred or so paid membership neighborhood organization in the Jamaica Plain section of the city of Boston…The Sherrill House, on the one side, is on South Huntington Avenue, an increasingly industrial-looking section of the city. It also abuts the Jamaicaway, part of Olmstead's Emerald Necklace. The Emerald Necklace has been a key interest point of the Jamaica Pond Association. About two years ago, members of the Jamaica Plain community at large, the Pond Association and the Neighborhood Council in particular, became apprised of the plans for Sherrill House through legal notices for hearings before the Boston Landmarks Commission on their proposal. A number of us spoke at the hearing before the Landmarks Commission, the staff of which was recommending that the Landmarks Commission exercise the maximum of its powers under applicable ordinances and laws, to recognize a graceful masonry stucco residence that is on the Jamaicaway, a part of the new parcel that is next door to the old parcel that the Sherrill House owns. The Landmarks Commission voted unanimously to exercise its full powers which was a stop order of ninety days. The Sherrill House would have you believe that this project has met with the blessing of the Boston Landmarks Commission, and that is an inference that is not supported by the facts. The facts are that the Landmarks Commission voted its maximum power under the law and did not approve of this project."

Mr. Moloney continued, "We are not opposed to the Sherrill House. The Sherrill House has an excellent reputation…The Sherrill House is well known for the quality of its care, its attention and concern for its residents and patients. We are not opposed to the renovation of the existing building of the Sherrill House. We support it and we encourage their growth and profitability. What is of concern is the development proposed for the new parcel of land recently acquired. Most of the activity proposed for that parcel of land has little if anything to do with public health. It has everything to do with bringing more cars to South Huntington and that part of Jamaica Plain. It is a creation of a multi-level, seventy-five car underground parking garage on a site that starts at South Huntington Avenue and slopes downward towards the Jamaicaway. This is a very precious site…because it abuts the Emerald Necklace. There is an issue of public interest in this building. And that public interest concerns the look and feel of the Jamaicaway and the Emerald Necklace; it concerns sensible

traffic and car management problems for our community; and it also concerns improvement of the health care facilities for our neighbors and residents…We think it is eminently possible for Sherrill House to take this building and persevere so that the residential character, of the Jamaicaway can be preserved…It is hard to understand why the Sherrill House, which has demonstrated a record of accomplishment and care and compassion for the elders of our community inside its buildings, refuses to sit down with the community to negotiate over the concerns of the community. And we would urge this Council acting in the public interest to approve the project as it concerns renovation of their existing building, but not to approve the project as it would be in favor of the creation of a seventy-five car underground multi-level parking garage which many of us feel this project essentially is for that new parcel of land."

After consideration, upon motion made and duly seconded, it was voted: (Chairman Koh, Ms. Slemenda, Mr. Rubin, Mr. Sherman, Mr. George, Dr. Sterne, Mr. Sneider, Ms. Kearney-Masaschi in favor; Dr. Askinazi abstaining, **to approve in part with conditions, Project Application No. 4-1397 of Sherrill House, Inc.,** (summary of which is attached to and made a part of this record as **Exhibit Number 14,661**), based on staff findings, with a maximum capital expenditure of $10,384,362 (January 1999 dollars) and first year incremental operating costs of $1,145,714 (January 1999 dollars). As approved, the application provides for renovation to replace major building component systems including HVAC, elevators, electrical system, windows, fire alarm system, nurse call system, and plumbing. The project also includes new construction to add space for existing dining, activity, bathrooms, tub rooms, resident rooms, administration, underground parking, and major circulation. This determination is subject to the following conditions:

The applicant shall accept the maximum capital expenditure of $10,384,362 (January 1999 dollars) as the final cost figure except for those increases allowed pursuant to 105 CMR 100.751 and 752.

1. The total approved gross square feet (GSF) for this project is 122,786: 69,234 GSF for renovation to replace major building component systems; 48,512 GSF for new construction to add space for existing dining, activity, bathrooms, tub rooms, resident rooms, administration, underground parking, and major circulation; and 5,040 GSF, which the applicant may construct at its own risk to accommodate a one-time expansion of 12 Level II beds.
2. The applicant shall, prior to replacement of the facility, sign formal affiliation agreements with at least one local acute care hospital and one local home care corporation that include provisions for respite care services.
3. The applicant shall establish a plan to ensure that the residents of Sherrill House are informed of the changes and provide for their comfort and safety during the construction process.
4. Upon implementation of the project, any assets such as land, building improvements, or equipment which are either destroyed or no longer used for patient care, shall not be claimed for reimbursement for publicly aided patients.
5. The applicant shall obtain Medicare certification for its proposed Level II beds.

Staff's recommendation was based on the following findings:

1. The applicant is proposing renovation to replace major building component systems including the HVAC, elevators, electrical system, windows, fire alarm system, nurse call system, and plumbing. New construction is also proposed to add space for existing dining, activity, bathrooms, tub rooms, resident rooms, administration, underground parking, and major circulation. The applicant also proposes to add a one-time expansion of 12 Level II beds available under 105 CMR 100.020, definitions of Expansion and Substantial Change in Services, of the DoN Regulations.
2. The health planning process for this project is satisfactory.
3. Consistent with the Determination of Need Guidelines for Nursing Facility Replacement and Renovation (Guidelines), the applicant has demonstrated need to renovate major building component systems, and add space for existing dining, activity, bathrooms, tub rooms, resident rooms, administration, and major circulation, as discussed under the health care requirements factor of the Staff Summary.
4. The project, with adherence to certain conditions, meets the operational objectives factor of the Guidelines.
5. The project, with adherence to a certain condition, meets the standard compliance factor of the Guidelines.
6. The recommended maximum capital expenditure of $10,384,362 (January 1999 dollars) is reasonable compared to similar, previously approved projects.
7. The recommended incremental operating costs of $1,145,714 (January 1999 dollars) are reasonable based on similar, previously approved projects. All operating costs are subject to review by the Division of Health Care Finance and Policy and third party payors according to their policies and procedures.
8. The project meets the relative merit requirements of the Guidelines.
9. The Division of Health Care Finance and Policy submitted comments related to the financial feasibility of the project.
10. The project is exempt from the community health initiatives requirement.

The Kevin F. Moloney Ten Taxpayer Group registered in connection with the project and requested a public hearing which was held on July 6, 1999.

ALTERNATE PROCESS FOR TRANSFER OF OWNERSHIP APPLICATION: PROJECT APPLICATION NO. 1-3978 OF WING MEMORIAL HOSPITAL – REQUEST FOR TRANSFER OF OWNERSHIP AND ORIGINAL LICENSURE OF WING MEMORIAL HOSPITAL ASSOCIATION, RESULTING FROM AN AFFILIATION AGREEMENT IN WHICH CONTROL OF WING MEMORIAL HOSPITAL CORPORATION WILL BE TRANSFERRED FROM WING HEALTH SYSTEM, INC. TO U MASS MEMORIAL HOSPITAL, INC. :

Mr. Jere Page, Senior Analyst, Determination of Need Program, said, "This is a transfer of ownership and original licensure of the applicant, Wing Memorial Hospital, resulting from an affiliation agreement between Wing Health System, Inc., a cooperative parent of Wing Memorial Hospital Corporation, and U. Mass Memorial Hospitals, Inc. in which control of Wing Memorial Hospital Corporation will be transferred from Wing Health System into U. Mass. Memorial Hospitals, Inc. No changes in service and no capital expenditures are contemplated for this transfer. Wing Memorial Hospital Corporation will remain a licensee

of the hospital. And the applicant reports that this transfer will allow Wing Memorial Hospital to become part of a broad interrelated health care delivery system that will enhance the delivery of health services to residents of its service area. The project was reviewed under the alternate process for change of ownership of hospitals, and found to satisfy the standards set forth under this process. Therefore, staff is recommending approval of the project with the condition listed on page three of the staff's summary which stipulates that the applicant agree to maintain or increase its level of free care of five percent of gross patient service revenues, which existed prior to the transfer."

Attorney Constance Sprauer, Brown, Rudnick, Freed and Gesmer, spoke representing the Applicant, Wing Memorial Hospital. Attorney Sprauer said, "This is an interesting project that is being done with great sensitivity to local community interests. The way it is occurring is, currently there is a hospital parent corporation the hospital itself. As part of this affiliation, what is going to be happening is, the direct relationship and the control relationship between the parent and the hospital is going to be served. The parent corporation will remain in existence as a foundation. It will retain the assets that it has that are endowments that are specifically devoted to community health-related purposes for that local community, and the assets that it has that are hospital specific assets will be transferred to the hospital. The transfer of control contemplates that for a period of the first four years, this is a two-phase transfer of control, for the first four years there will be two classes of membership for the hospital corporation. The two classes will consist of class A, which will be five individuals that have been formerly on the Board of Directors of the hospital and members of the Board of Governors of the parent corporation. The second class of membership is U.Mass. Memorial Hospitals, Inc. which is the hospital corporation subsidiary of the U. Mass. Memorial Health Care System in Worcester. Class A, which is the local community class of membership is responsible for designating five members of the board. That in effect is the legal transfer of control. After the first four years, the U. Mass. Memorial Hospital then becomes the full sole member. Now U. Mass. Memorial Hospital as a part of this affiliation has committed itself to an agreement that for at least five years Wing Memorial Hospital will stay as it is currently constituted, will remain as an inpatient facility. Outpatient facilities will be maintained for at least ten years. And to back that up, U. Mass. Memorial Hospital has committed itself to substantial funding for renovation of the hospital facilities and outpatient facilities. Wing Hospital has five outpatient clinics that are located in the surrounding communities. The other thing that U. Mass Memorial is committed to doing is to foster a relationship between the University of Massachusetts Medical School and the hospital and the clinics to promote teaching programs, access to specialty care, access to tertiary care, and stronger clinical and quality assurance relationships."

After consideration, upon motion made and duly seconded, it was voted: (Chairman Koh, Ms. Slemenda, Mr. Rubin, Mr. George, Dr. Sterne, Ms. Kearney-Masaschi, Mr. Sneider in favor; Dr. Askinazi abstained; Mr. Sherman abstaining (M.G.L. 268a)) **to approve with a condition, Project Application No. 1-3978 of Wing Memorial Hospital – Request for transfer of ownership and original licensure of Wing Memorial Hospital Association, resulting from an affiliation agreement in which control of Wing Memorial Hospital Corporation will be transferred from Wing Health System, Inc. to U. Mass Memorial**

Hospital, Inc. A summary is attached to and made a part of this record as **Exhibit Number 14,662**. This Determination is subject to the following condition:

Wing Memorial Hospital Corporation agrees to maintain or increase the percentage of gross patient service revenue allocated to free care, as defined at M.G.L. 118G or its successor statute covering uncompensated care, as existed prior to the transfer. The percentage of gross patient service revenue allocated to free care shall be 5.0%.

The meeting adjourned at 11:30 a.m.

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Howard K. Koh, M.D.
Chairman
Public Health Council

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